



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/20/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment
DLCDC File Number 006-07

The Department of Land Conservation and Development (DLCDC) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCDC office in Salem and the local government office.

Appeal Procedures*

DLCDC ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, June 02, 2009

This amendment was submitted to DLCDC for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

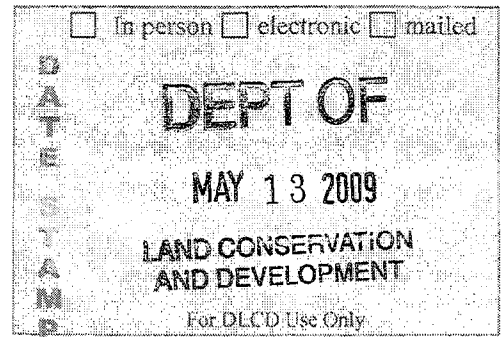
If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCDC. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Austin McGuigan, Polk County
Doug White, DLCDC Community Services Specialist
Gary Fish, DLCDC Regional Representative

<paa> Y/ph

Notice of Adoption



**THIS FORM MUST BE MAILED TO DLCD
 WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18**

Jurisdiction: **Polk County**

Local file number: **LA 07-01**

Date of Adoption: **5/6/2009**

Date Mailed: **5/12/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 10/1/2007

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
 Revision to the Polk County Comprehensive Plan Citizen Involvement element and implementing zoning ordinance provisions.

Does the Adoption differ from proposal? Yes, Please explain below:

This ordinance deactivates Area Advisory Committees and creates a system of registered groups rather than a Citizen Advisory Committee.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. See First Page

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

DLCD

Local Contact: **Jerry Sorte**

Phone: **(503) 623-9237** Extension:

Address: **850 Main Street**

Fax Number: **503-623-6009**

City: **Dallas**

Zip: **97338-**

E-mail Address: **sorte.jerry@co.polk.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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**BEFORE THE BOARD OF COMMISSIONERS FOR
POLK COUNTY, OREGON**

In the matter of Legislative)
Amendment LA 07-01 to amend the)
Text of the Polk County Comprehensive)
Plan and Zoning Ordinance to)
Deactivate Area Advisory Committees)
and create a system of registered groups)

ORDINANCE NO. 09-02

WHEREAS, in reviewing the current structure of the Area Advisory Committees (AACs), County Legal Counsel and Risk Management determined that the liability risks presented by the AACs were too great for the County to assume. The Board of Commissioners held a public hearing on January 31, 2007, and continued the hearing to February 14, 2007 and March 7, 2007 to consider the risk concerns identified and to provide an opportunity for public input; and

WHEREAS, the Board concluded that citizen involvement and input was necessary and important in the land use process, but that there was significant liability in the current Citizen Involvement Program that needed to be reduced; and

WHEREAS, the Board directed the Planning Commission to hold public hearings on the Citizen Involvement Program and make a recommendation to the Board on changes that would retain citizen involvement while addressing the liability issue affirmed by the Board; and

WHEREAS, Planning Commission conducted a duly noticed public hearing on January 20, 2009 to receive comments and testimony; and

WHEREAS, the Planing Commission deliberated at their meeting on February 17, 2009 and forwarded a recommendation to the Board of Commissioners for support of Comprehensive Plan and Zoning Ordinance amendments to replace Area Advisory Committees with a system of registered groups; and

WHEREAS, the Board of Commissioners conducted a duly noticed public hearing on April 1, 2009, and provided an opportunity for the submission of testimony and evidence; and

WHEREAS, the Board of Commissioners, on April 22, 2009, publicly considered testimony and evidence from interested citizens, deliberated, and unanimously approved the proposed Comprehensive Plan and Zoning Ordinance amendments as recommended by the Planning Commission; now, therefore

THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Sec. 1. That Polk County adopts the findings in favor of the amendments to the Polk County Comprehensive Plan and Zoning Ordinance as identified in Staff Report section of the Board of Commissioners Memorandum shown on Exhibit "A."

Sec. 2. That Polk County amends the Polk County Comprehensive Plan text to deactivate Area Advisory Committees and create a system of registered groups as shown on Exhibit "B."

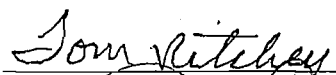
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Sec. 3. That Polk County amends the Polk County Zoning Ordinance text to deactivate Area Advisory Committees and create a system of registered groups as shown on Exhibit "C."

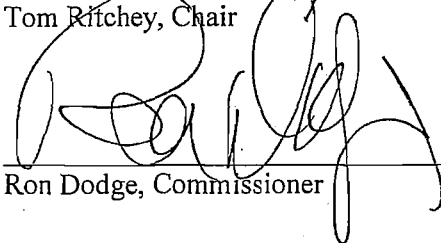
Sec. 4. That this ordinance shall take effect July 1, 2009 in order to facilitate a seamless transition between the systems of Area Advisory Committees and registered groups.

Dated this 6th day of May 2009, at Dallas, Oregon.

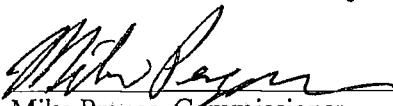
POLK COUNTY BOARD OF COMMISSIONERS



Tom Ritchey, Chair

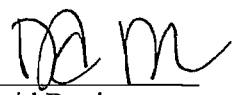


Ron Dodge, Commissioner



Mike Propes, Commissioner

Approved as to Form:



David Doyle
County Counsel

First Reading: _____

Second Reading: _____

Recording Secretary: _____

STAFF REPORT:

I. BACKGROUND

In reviewing the current structure of the AACs, County Legal Counsel and Risk Management determined that the liability risks presented by the AACs are too great for the County to assume. The Board of Commissioners held a public hearing on January 31, 2007 to consider the risk concerns identified. There was significant public turnout and the Board continued the public hearing to February 14, 2007. Additional testimony was provided and the Board continued the hearing to March 7, 2007 in order to afford the public more opportunity to comment. During these proceedings, the Board concluded that citizen involvement and input was necessary and important in the land use process. They also determined that there is significant liability in the current Citizen Involvement Program that needs to be reduced. The Board then directed the Planning Commission to hold public hearings on the Citizen Involvement Program and make a recommendation to the Board on changes that would retain citizen involvement while addressing the liability issue affirmed by the Board.

The Planning Commission held four work sessions to discuss alternatives for the Citizen Involvement Program. The product of these work sessions was three possible alternatives: a Citizen Advisory Committee (CAC), a system of registered groups, or a hybrid of the two methods. These concepts are discussed in greater detail in Subsection II, below. The CCI also attended these work sessions. The Planning Commission passed a motion to recommend that the Board of Commissioners replace area advisory committees with a system of registered groups. During the Planning Commission work session and hearing process, the five-member CCI also supported the registered group concept over a CAC. After this recommendation was made, and prior to the CCI's March 11, 2009, one CCI member's term expired and another member resigned. At the CCI's March 11, 2009 meeting two CCI members came out in favor of a hybrid system to replace the AACs, and one member came out in favor of registered groups.

Notice of the Board of Commissioner's hearing was mailed to the CCI, AACs, Planning Commission, and participants of record on March 11, 2009. Notice was published in the Itemizer-Observer newspaper on March 11, 2009. Notification of this legislative proceeding has been fulfilled pursuant to Polk County Zoning Ordinance Section 111.370.

II. ALTERNATIVES TO AACs

The following concepts were discussed during Planning Commission and CCI work sessions. Each alternative concept would replace Area Advisory Committees (AACs), and provide an additional mechanism within the Polk County Citizen Involvement Program for citizens to provide input on current planning applications (such as conditional use permits, partitions, farm dwellings, and so forth).

Registered Groups

The registered group concept would allow self-organized groups to register with the Planning Division to receive notification of land use applications in their geographical region. These geographical regions would also be the same as the current AAC regions. Registered groups would be self-organized and not officially recognized by the County; thereby relieving the County of liability over such groups.

As currently conceptualized, at the beginning of each year a group would provide email contact information to the Planning Division. As a part of registration, the group would acknowledge that their members reside or own property in the geographical region for which they are requesting notification. When Planning Staff receives a land use application and sends out notification and request for comment, the notice would be emailed to all registered groups within the geographical region that contains the property subject to the land use application. A registered group would not be entitled to a free appeal of a Planning Director's decision, and would be required to pay the \$250 appeal fee should the group choose to appeal a Planning Director's decision. As a method to keep the County's notification list current, at the end of each

year, groups would need to re-register in order to continue receiving land use notification during the upcoming year.

Citizen Advisory Committee (CAC)

A CAC would consist of seven (7) members that would be appointed by the Board of Commissioners. CAC members would each represent a geographic region of the County; those being the current AAC regions. The role of the CAC would be to review and comment on current planning applications. One way that this system might work is that notice of current planning applications would be sent to all members of the CAC. The member of the CAC representing the region in which the land use proposal is located would then distribute this notice to any interested citizens in their region. The CAC member would act as a liaison between the County and the citizens who reside or own property in the CAC member's region. A CAC member would help citizens by acting as a single contact person for citizen questions concerning the land use planning process. A CAC would also meet according to a fixed or flexible schedule. At their meetings the CAC would consider one or multiple active land use applications and provide comments to the Planning Director or Hearings Officer before a decision is made. The CAC would also be structured so that a meeting could be called after a decision is made in order for the CAC to consider filing an appeal of a Planning Director's or Hearings Officer's decision.

The CAC would be a County recognized group; therefore, the County would retain liability over these groups. Also, as required by ORS 215.214(2), the CAC would be entitled to a free appeal of a Planning Director's decision on a land use application.

When crafting the details of how a CAC would operate, one difficulty that may arise concerns designing a system so that the seven-member committee would be able to meet and comment on current planning applications. Prior to the Planning Director or Hearings Officer making a decision, notification of land use applications and a request for comment (pre-notice) would be mailed to the CAC, local agencies, and in the case of some land use applications, to surrounding property owners. As required by PCZO 111.240(B), and as a matter of policy, the comment period for those land use applications that do not require a public hearing is 10 days. The majority of land use applications received by the Planning Division fall within this group. As required 111.230(B), the pre-notice comment period for those land use applications requiring a public hearing is 20 days. The CAC would need to be structured so that it could meet and provide comment during this narrow 10 or 20 day window. Similarly, once a Planning Director or Hearings Officer decision has been made, there is a 12 day appeal period that begins on the date that notice of the decision is mailed. The CAC may want to meet to consider an appeal, and would need to be structured to quickly schedule and hold meetings.

Hybrid System of a CAC and Registered Groups

A hybrid system that contains components of both the CAC concept and the registered groups was acknowledged as a possibility by the Planning Commission and CCI, but not discussed in great detail. The concept behind a hybrid system is that a CAC and registered groups are not mutually exclusive methods. They could both be established, or components from each could be selected and combined. A hybrid system has the potential to provide the benefits as well as the costs of each method.

Fiscal Impacts

The costs associated with replacing AACs with registered groups would primarily be associated with administrative costs in the Planning Division. Staff would need to receive and process group registrations and maintain an email listserv. Staff would also likely need to spend more time answering questions about the land use planning process from the general public.

The costs associated with replacing AACs with a CAC would be incurred through the recruitment of committee members and the provision of staff support. Costs would be incurred when the Board recruits and interviews CAC members. Costs would also be incurred by the Planning Division providing staff support when preparing for and attending CAC meetings.

These costs may include mailing costs, copying costs, staff time preparing memos and other information for the CAC, and administrative costs associated with staff hours spent attending CAC meetings and preparing minutes.

The costs associated with replacing AACs with a hybrid system would depend on the specifics of the system; however, such a system could incur the costs of both a CAC and registered groups if both concepts are implemented.

III. COMMENTS RECEIVED

No comments were received in response to the notification of the Board of Commissioner's hearing. The comments that were submitted in response to the Planning Commission hearing are included in the record.

IV. CRITERIA FOR LEGISLATIVE PLAN AMENDMENTS

A legislative plan amendment may be approved provided that the request is based on substantive information providing a factual basis to support the change. In amending the Comprehensive Plan, Polk County shall demonstrate compliance with Polk County Zoning Ordinance Section 115.060.

Staff's findings and analysis evaluates both registered groups, the method recommended by the Planning Commission, and a Citizen Advisory Committee. The concept of a hybrid system has not been sufficiently developed and is therefore not specifically considered below. Staff's findings and analysis are as follows:

- (A) Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4; [PCZO 115.060(A)]**

Findings: Area Advisory Committees (AACs) are currently the formal group component of the Polk County Citizen Involvement Program that reviews and provides comment on current planning projects. Current planning projects include applications for conditional use permits, land partitions, property line adjustments, dwellings in resource zones, and variances. The replacement of AACs with either a system of registered groups or a Citizen Advisory Committee (CAC) would be consistent with Oregon Statewide Planning Goal 1, titled "Citizen Involvement," and ORS 197.160. The Polk County Comprehensive Plan (PCCP) and Zoning Ordinance (PCZO) text amendments recommended by the Planning Commission that would replace AACs with registered groups are included as Attachments A and B. The text amendments that would replace AACs with a CAC are included in the record. Statewide Planning Goal 1 is included in full as Attachment C.

Goal 1 requires jurisdictions with planning authority to "*develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process*" [OAR 660-015-0000(1)]. In regards to current planning participation, Goal 1 states:

Implementation - The general public, through the local citizen involvement programs, should have the opportunity to participate in the development, adoption, and application of legislation that is needed to carry out a comprehensive land-use plan.

The general public, through the local citizen involvement programs, should have the opportunity to review each proposal and application for a land conservation and development action prior to the formal consideration of such proposal and application.
[Goal 1 – OAR 660-015-0000(1) – Component 4]

ORS 197.160(b) also speaks to citizen involvement programs and states in relevant part:

197.160 State Citizen Involvement Advisory Committee; city and county citizen advisory committees. (1) To assure widespread citizen involvement in all phases of the planning process:

- (b) *Each city and county governing body shall submit to the commission, on a periodic basis established by commission rule, a program for citizen involvement in preparing, adopting and amending comprehensive plans and land use regulations within the respective city and county. Such program shall at least contain provision for a citizen advisory committee or committees broadly representative of geographic areas and of interests relating to land uses and land use decisions.* [ORS 197.160(b)]

If adopted, registered groups or a CAC would become a component of the Polk County Citizen Involvement Program that would also include the Committee for Citizen Involvement (CCI), Planning Commission, and citizen involvement goals, policies, and procedures that are described in the PCCP and PCZO and implemented by Polk County Planning Staff. The Citizen Involvement Element (Element A) of the Comprehensive Plan and the notice procedures listed in PCZO Chapter 111, provide opportunities for neighboring property owners to receive notice and provide comment on Type B applications (such as conditional use applications; see PCZO 111.240), or Type A applications (such as land partitions; see PCZO 111.240) that are referred to the Hearings Officer for a decision, prior to a local decision. Currently the AACs receive notice of all land use applications in their geographical area, and are provided an opportunity to comment prior to a local decision being made. Any citizen may also review and comment on any land use application by visiting the Community Development Department office. Both registered groups or a CAC would provide a mechanism for citizens to receive notification and have an opportunity to comment on all land use proposals in their geographical area prior to a local decision being made. A citizen would either receive notice through their registered group (likely via email) or through the appointed CAC member for their geographical region.

Staff believes that the existing CCI meets the requirements of ORS 197.160(b). Registered groups or a CAC would promote citizen involvement in current planning projects and allow the Citizen Involvement Program to provide an *"opportunity for citizens to be involved in all phases of the planning process,"* as required by Goal 1.

Staff concludes that the replacement of AACs with registered groups or a CAC, as described in the draft language to the Polk County Comprehensive Plan and Zoning Ordinance (Attachments A-B and included in the record), would be consistent with the Oregon Statewide Planning Goals, Oregon Revised Statutes, and Oregon Administrative Rules. The drafted text amendments would not require an exception to any Oregon Statewide Planning Goal.

(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]

Findings: If the Board of Commissioners decides to deactivate AACs, this legislative amendment would amend portions of the Citizen Involvement Element of Polk County Comprehensive Plan (PCCP) and sections of Polk County Zoning Ordinance (PCZO) Chapter 111. PCCP text amendments and PCZO amendments would modify those portions of the PCCP and PCZO that reference Area Advisory Committees (AACs) and replace that language with language to either create a system of registered groups or a Citizen Advisory Committee (CAC). Staff has identified the following goal and policy within the Citizen Involvement Element of the PCCP which are applicable to this application:

GOAL 1. To provide for a wide range of opportunities for citizens to be involved in all public phases of the planning process in Polk County. For the purposes of the Polk County Citizen Involvement Program, the term "citizen" shall mean property owners, land use applicants and the general public.

1.1 Polk County will adopt and maintain a citizen involvement program that complies with Statewide Planning Goal 1 – Citizen Involvement. [PCCP Section 2, Element A, Policy 1.1]

As described in Subsection A above, the proposed registered group or CAC concepts would be consistent with Statewide Planning Goal 1. Registered groups or a CAC would provide additional opportunities for citizens to be involved in the current planning process. The replacement of AACs with either registered groups or a CAC would allow the Citizen Involvement Program to continue to promote public involvement in all public phases of the planning process, and would comply with the above identified Comprehensive Plan goal and policy. No other Comprehensive Plan policies or goals have been identified to be relevant to this proposal.

(C) That the proposed change is in the public interest and will be of general public benefit; and [PCZO 115.060(C)]

Findings: The Board of Commissioners determined that the Area Advisory Committee (AAC) component of the Citizen Involvement Program is not an effective method to implement Statewide Planning Goal 1, because AACs expose the county to unreasonable liability risk. Changes to the Polk County Comprehensive Plan (PCCP) and Polk County Zoning Ordinance (PCZO) could replace the AACs with registered groups or a Citizen Advisory Committee (CAC). This change is proposed as a means to decrease the liability risks associated with AACs, while at the same time providing an opportunity for citizens to be involved in all phases of the planning process.

Although the technical details of how a system of registered groups or a CAC would operate have not been determined, Staff believes that either registered groups or a CAC would be of general public benefit. A method that allows groups to register with the Planning Division to receive notice of land use applications would allow anyone who is interested to receive information and be involved in providing input into the planning process. Providing notification to citizens early in the planning process may allow affected parties to troubleshoot potential problems before a decision is made. A CAC, if created, would be composed of one Board appointee from each of the seven geographical areas of Polk County corresponding with the AAC boundaries. Currently only three of the seven AAC districts have active AACs. A CAC may encourage greater citizen participation in areas that are not currently represented by an active AAC. The CAC member would help to increase the transparency of the land use planning process by being a resource to district citizens and a link between citizens and Polk County staff and the Board of Commissioners. A CAC or registered groups would act as a tool to promote broad based citizen involvement across all geographical areas of Polk County.

Staff concludes that changes to the PCCP and PCZO, that would replace AACs with either registered groups or a CAC, would decrease the liability risk to the County while maintaining a citizen involvement program that is consistent with Goal 1. As such, replacement of AACs with either registered groups or a CAC would be in the public interest and of general public benefit.

(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.060(D)]

Findings: The identified amendments would not change any of the uses permitted within an urban growth boundary. Therefore, the proposed amendments would not be limited or prohibited by any current intergovernmental agreements.

V. CONCLUSION & RECOMMENDATION

Based on the findings above, Staff concludes that the replacement of the Area Advisory Committees (AACs) with either registered groups or a Citizen Advisory Committee (CAC) would comply with all of the applicable review and decision criteria for a legislative amendment. If the Board of Commissioners decides to deactivate the AACs, Staff recommends that the Board create a system of registered groups as recommended by the Polk County Planning Commission.

A. Citizen Involvement

Mission Statement

The mission of the Polk County Citizen Involvement Program is to direct and encourage active, broad based citizen participation on all aspects of land use planning in Polk County.

CITIZEN INVOLVEMENT

Vision Statement

The citizen involvement program is the cornerstone for sound land use planning in Polk County. The citizen involvement program complies with and successfully implements Statewide Planning Goal 1: Citizen Involvement. The citizen involvement program is an integral element in the Polk County Comprehensive Plan. The citizen involvement program expresses the firm commitment of the people and elected officials in Polk County to provide meaningful opportunities for citizens to participate in the planning and development of Polk County.

Through careful planning, competent administration and adequate funding, the citizen involvement program affords all citizens in Polk County – property owners, land use applicants and the general public with a range of opportunities to obtain current information, provide meaningful input into decisions and learn about the technical aspects of land use planning. A Committee for Citizen Involvement regularly advises the County Planning Commission and Board of Commissioners on all matters associated with citizen participation in land use planning in Polk County. Based on a schedule in the comprehensive plan, the citizen involvement program is periodically evaluated, and as needed, revised in order to respond to changing conditions and the needs of citizens in Polk County.

As a result of the citizen involvement program, county residents and the public are afforded opportunities to participate early and often in the adoption, amendment and implementation of the Polk County comprehensive plan and land use regulations. Citizens are able to judge the effect of proposed land use policies and actions on their properties, neighborhoods and communities. Public notice of county land use decisions, pending applications and Planning Commission and Board of Commissioner meetings and hearings are issued in a timely, understandable manner and are readily accessible through postings, regular mail and the county's web page.

As a result of adhering to the citizen involvement program, contentious land use proceedings are less likely to occur because citizens have participated in plan and ordinance development and therefore understand and support the standards and requirements for reviewing land use applications. This in turn promotes continued interest in land use planning in Polk County and means that there are fewer instances

where neighbors and adjoining land owners have to bear the expense and hostility often generated by contested land use hearings and appeals.

Elements of the Polk County Citizen Involvement Program

The Polk County Citizen Involvement Program shall consist of the following elements:

1. Goals and Policies adopted by the Board of Commissioners.
2. The Citizen Involvement Committee appointed by the Board of Commissioners.
3. An Annual Implementation Plan approved by the Board of Commissioners.

Background

In 1973, the Oregon State Legislature adopted Senate Bill 100, and for the first time, citizen participation in the local decision-making process became mandatory. It is now the right of every citizen to be involved in the preparation of plans, to have his/her ideas considered by decision-makers, and to have decision-makers respond to these ideas on local land-use and comprehensive planning. It is also the responsibility of every citizen to exercise these rights.

A strong citizen involvement program is felt to be essential to the success of the Polk County planning process. During the development of the comprehensive plan, citizen involvement was at its zenith for maximum participation. There were seven area advisory committees fully functioning and active. Subsequently, the number of these committees dwindled to two, then to one and finally, for a few months, there weren't any that were active. In the late 1990s, reactivation of some of these committees, interest in providing an outreach to inform more interested citizens and direction from the Committee for Citizen Involvement directed that a review of the Citizen Involvement Goals and Policies be undertaken. Upon revision of the goals and policies, new program elements were adopted in order to implement the goals and policies. In 2007, liability risks to the County, associated with County recognized self-appointed committees, increased as a result of the uncertainty in land use planning created by Measure 37 (2004). Polk County undertook a review of the citizen involvement program in light of the liability risks with the objective of reducing liability while still providing an effective program. As a result of this review, existing program elements were modified and adopted implementing a system to allow groups to register with the Planning Division to receive County planning information in place of a system of County recognized area advisory committees. These "registered groups" are self-organized and not officially recognized by the Board of Commissioners.

In recognition of the necessity and value of participation by its citizenry in the local government decision-making process, Polk County adopts the following goals and policies:

GOALS and POLICIES

1. **GOAL 1. To provide for a wide range of opportunities for citizens to be involved in all public phases of the planning process in Polk County. For the purposes of the Polk County Citizen Involvement Program, the term “citizen” shall mean property owners, land use applicants and the general public.**
 - 1.1 Polk County will adopt and maintain a citizen involvement program that complies with Statewide Planning Goal 1 – Citizen Involvement.
 - 1.2 Private property rights of land owners and applicants for land use actions must be recognized as an important element in the land use planning process.
 - 1.3 Polk County will strive to permit those uses that have little or no impact on neighboring properties without requiring a land use determination or limited land use determination.
 - 1.4 Polk County will provide for a designated representative Committee for Citizen Involvement (CCI) to monitor, evaluate and make periodic recommendations on the structure and implementation of the Polk County citizen involvement program.
 - 1.5 Polk County will provide notice to those citizens that may be affected by proposed and adopted land use decisions and actions including but not limited to: amendments to the comprehensive plan and implementing regulations, zone changes, land use determinations, variances, conditional use permits, dwelling approvals, land divisions and subdivisions.
 - 1.6 Polk County will strive to encourage organizations, special districts, cities and affected local, state, tribal and federal government agencies to utilize the Polk County citizen involvement program to solicit and receive the views of the public concerning plans, programs and action affecting land use planning in Polk County.
2. **GOAL 2. To make land use information readily available to the public in an understandable form and provided in a timely manner.**
 - 2.1 Polk County will prepare and make available to the public upon request clear and concise information reports, and supporting findings of fact and conclusions of law to citizens regarding County land use decisions and actions.
 - 2.2 Polk County will, as required by law provide public notices of proposed and approved land use decisions that sufficient and concise information to

enable citizens to provide timely, informed comments.

2.3 Polk County will employ a variety of methods to communicate land use information to citizens, government agencies and interested organizations including the news media, direct mailings, electronic means and public meetings, workshops and briefings.

2.4 Polk County will develop and employ a land use information and education program to increase the knowledge, awareness and understanding about all phases of land use planning in Polk County.

3. GOAL 3. To provide for an effective two-way communication on land use matters between citizens and Polk County officials, county departments and advisory bodies.

3.1 Polk County will provide information and procedures about how to communicate with the County Planning Commission, county staff and the Board of County Commissioners concerning County land use issues, decisions and actions.

3.2 Polk County will make available to the public timely responses from county staff, advisory bodies and elected officials regarding County land use actions and decisions.

4. GOAL 4. To provide funding and staff support for the citizen involvement program.

4.1 Polk County will make reasonable effort to provide staff and possible financial resources to assist with implementation of the Polk County Citizen Involvement Program.

4.2 Polk County will provide notice and opportunity for the public and CCI to participate in the budget process concerning implementation of the Polk County Citizen Involvement Program.

4.3 Polk County will consider the interests and recommendations of the CCI regarding financial and staff support for the Polk County Citizen Involvement Program.

5. GOAL 5. To periodically evaluate and, as necessary, revise the citizen involvement program in response to changing conditions and needs of the citizens of Polk County.

5.1 On a time frame established by the Board of Commissioners, but not less than annually, the Committee for Citizen Involvement will prepare a report to the Board of County Commissioners evaluating the citizen

involvement program and making any recommendations for changes or needed improvements.

- 5.2 Polk County's Citizen Involvement Program will contain evaluation criteria and procedures to guide the CCI and Board of Commissioners in evaluating citizen involvement in Polk County.
- 5.3 The CCI will submit an annual implementation plan to the Planning Commission for a recommendation to the Board of Commissioners. This plan will identify and prioritize items that will implement the adopted plan. This plan will be used in developing budget recommendations.

CHAPTER 111

ADMINISTRATION AND PROCEDURES

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111.010. ADMINISTRATION OF THE ORDINANCE. This ordinance shall be jointly administered by the County Building Official and the Director of Planning.

The Building Official or other designated officer, prior to issuing any permit pertaining to the use of land or structures, or the erection or alteration of any structure, shall ascertain that the proposed use or construction shall in all ways conform to the requirements set forth in this ordinance.

The Planning Director shall handle all matters pertaining to zone changes, variances, and conditional uses, and other administrative matters as prescribed by this ordinance; and such other matters as directed by the Board of Commissioners.

111.020. MINIMUM REQUIREMENTS. In interpreting and applying this ordinance, the provisions herein shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

111.030. EFFECT ON OTHER ORDINANCES, AGREEMENTS BETWEEN PARTIES. It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance, previously adopted, relating to the use of buildings or premises, or relating to the erection, construction, establishment, alteration, or enlargement of any buildings or improvements; nor is it intended by this ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this ordinance imposes a greater restriction upon the erection, construction, establishment, alteration, or enlargement of buildings, structure, or improvements, or the use of any such structures or premises in said several zones or districts, or any of them, than is imposed or required by such existing provisions of this ordinance, the greater restriction shall control, except that such precedence of this ordinance shall not apply to valid and unexpired permits and/or uses previously granted under the terms and provisions of any ordinance.

111.040. INTERPRETATION OF ORDINANCE.

- (A) When, in the administration of this ordinance, there is doubt regarding the intent of the ordinance, the Director shall request an interpretation of the provision by the Board of Commissioners, who may issue an interpretation of the question if they have determined that such interpretation is within their power and is not a legislative act. Any interpretation of the ordinance shall be based on the following:
 - (1) The purpose and intent of the ordinance as applied to the particular section and question; and,
 - (2) The opinion of the County Counsel when requested by the Board of Commissioners.
- (B) The Board of Commissioners may decide that the interpretation of the question is not within their power without an ordinance amendment or that there is insufficient basis upon which to make an interpretation and may request the Director to study the problem, and where necessary, propose an amendment to the ordinance. [Amended by Ordinance #88-21, dated November 30, 1988.]

111.050. SIMILAR USES. The Director may permit in any zone any use not described or listed in this ordinance for any other zone if, in the opinion of the Director, the requested use is of the same general type and is similar to the uses permitted in the zone. Such review and permission shall be made in the same manner as other interpretations of this ordinance, as described in Section 111.040.

111.060. FEES. Fees shall be required by the Director to be paid at the time of filing of each petition or application for a farm or forest dwelling, lot-of-record determination, land use determination, conditional use, planned development, variance, land partition, lot line

adjustment, similar use decision, comprehensive plan amendment, or zone change. The fees required by this section shall be set by resolution adopted by the Board of County Commissioners. [Amended by Ordinance #267, dated September 3, 1980.]

111.070 ZONES: OFFICIAL MAP

<u>FULL NAME</u>	<u>DESIGNATION</u>
Suburban Residential Zone	SR Zone
Acreage Residential 5 Acre Zone	AR-5 Zone
Limited Multi-Family Residential Zone	RL Zone
Multi-Family Residential Zone	RM Zone
High Rise Apartment Residential Zone	RH Zone
Exclusive Farm Use Zone	EFU Zone
Farm/Forest Zone	F/F Zone
Farm Forest Overlay Zone	FFO Zone
Public Amusement and Recreation Zone	PA Zone
Public and Private Cemeteries Zone	PC Zone
Public and Private Education Facilities Zone	PE Zone
Public and Private Hospital Zone	PH Zone
Public Park Zone	PP Zone
Public Service Zone	PS Zone
Commercial Office Zone	CO Zone
Commercial Retail Zone	CR Zone
Commercial General Zone	CG Zone
Industrial Commercial Zone	IC Zone
Industrial Park Zone	IP Zone
Light Industrial Zone	IL Zone
Heavy Industrial Zone	IH Zone
Rural Industrial Zone	R-IND Zone
Mineral Extraction Zone	ME Zone
Timber Conservation Zone	TC Zone
Rural Commercial Zone	R-COM Zone
Unincorporated Community Commercial Office Zone	UC-CO Zone
Unincorporated Community Commercial Retail Zone	UC-CR Zone
Unincorporated Community Commercial General Zone	UC-CG Zone
Unincorporated Community Industrial-Commercial Zone	UC-IC Zone
Unincorporated Community Industrial Park Zone	UC-IP Zone
Unincorporated Community Light Industrial Zone	UC-IL Zone
Unincorporated Community Heavy Industrial Zone	UC-IH Zone
Eola Unincorporated Community Commercial	Eola UC-C Zone
Eola Unincorporated Community Industrial Commercial	Eola UC-IC Zone
Eola Unincorporated Community Industrial	Eola UC-I Zone
Rickreall Unincorporated Community Commercial	Rickreall UC-C Zone
Rickreall Unincorporated Community Industrial Commercial	Rickreall UC-IC Zone
Rickreall Unincorporated Community Industrial	Rickreall UC-I Zone
Grand Ronde Commercial	GR / C Zone

Commercial Highway / Tourist	CH / T Zone
Grand Ronde Light Industrial	GR / LI Zone
Grand Ronde Heavy Industrial	GR / HI Zone
Grand Ronde Public Assembly Zone	GR / PA Zone
Grand Ronde Public Works / Safety	GR / PW Zone
Limited Use Overlay Zone	LU Zone

111.080. CERTIFICATION. The Board of Commissioners and the County Clerk shall certify that "this is the official zoning map referred to in Section 113.060 of the Polk County Zoning Ordinance". [Amended by Ordinance #88-19, dated 1989.]

111.090. ARRANGEMENT OF MAP. The official map may consist of several sheets or pages, which pages shall be listed on a cover page together with the date and number of each page. The certification of the official zoning map shall appear on the cover page.

111.100. LOCATION. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, there shall be only one official zoning map which shall be located in the County Clerk's office, and which official zoning map shall be the final authority as to the zoning status of land and water areas, buildings and other structures. An administrative counterpart of the official zoning map shall be maintained in the Planning Division office.

111.110. AMENDING OFFICIAL ZONING MAP. When an ordinance has been enacted amending the official zoning map, the Director shall so change and annotate the official map and the cover sheet to show the ordinance or resolution number and date of the change. The Director shall certify that the map has been changed as set forth in the amending ordinance and shall indicate the date the map was changed.

111.120. REPLACEMENT OF OFFICIAL ZONING MAP. In the event the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, or when it is necessary or desirable for some other reason, the Board of Commissioners, upon recommendation of the Planning Commission, may adopt all or part of a new zoning map by resolution, and such map shall supersede the prior official zoning map. The superseded map shall be filed for reference purposes for at least one (1) year. The new official map may correct drafting or other errors or omission in the prior official zoning map, but no such correction shall have the effect of amending the ordinance or any subsequent amendment thereof. The replacement map or each page in the case of individual sheets or pages shall be certified by the Board of Commissioners and County Clerk that "this official zoning map supersedes and replaces the official zoning map (date of map being replaced) as part of the Polk County Zoning Ordinance."

111.130. RULES FOR INTERPRETATION OF ZONE BOUNDARIES. Where uncertainty exists as to the boundaries of zones as shown on the official zoning map, the following rules shall apply:

- (A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- (B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (C) Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries;
- (D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

- (E) Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- (F) Boundaries indicated as parallel to our extensions of features indicated in subsections (A) through (E) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;
- (G) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections (A) through (F) above, the director shall interpret the zone boundaries, and if need be, may refer the matter to the Board of Commissioners for their interpretation. [Amended by Ordinance #88-19, dated September 29, 1988.]

111.140. ZONING MAP AMENDMENTS. A map zone change is a reclassification of any area from one zone or district to another, after the proposed change has been reviewed and a recommendation made by the Hearings Officer or the Planning Commission. Such change shall be an ordinance enacted by the Board of Commissioners after proceedings have been accomplished in accordance with the provisions of this chapter. [Amended by Ordinance #88-21, dated November 30, 1988.]

111.150. INITIATION OF A ZONE CHANGE BY POLK COUNTY.

- (A) A zone change may be initiated by Polk County only when the change proposed is in the public interest.
- (B) Proceedings to reclassify premises as to zone initiated by Polk County shall be by resolution, and the resolution shall be referred to the Planning Commission, if legislative, and the Hearings Officer, if quasi-judicial. The Director shall hereupon fix a date for hearing before the hearing body and give notice of such hearing as provided in Sections 111.340 through 111.370.
- (C) After the hearing, the Planning Commission or Hearings Officer shall make a recommendation to the Board of Commissioners. [Amended by Ordinance #88-21, dated November 30, 1988. Sections 123.030 and 123.040 repealed by Ordinance #88-21, dated November 30, 1988.]

111.160. INITIATION OF ZONE CHANGE. Property owners, or persons purchasing property under contract, if they state in writing that they are purchasing the property under contract, may file a zone change petition. The petition shall be in writing on forms provided by the Planning Director and shall be filed with the Planning Director not less than 45 days prior to the date of the hearing. The petition shall contain the following information:

- (A) The present zone;
- (B) The proposed zone;
- (C) The street address, or where none exists, the location of the property;
- (D) The legal description of the property sought to be reclassified;
- (E) The names, addresses and zip codes of the owner(s) of the property sought to be reclassified; and
- (F) The signatures of the owners of at least 50 percent of the area of the property sought to be reclassified and the extent or percentage of interest or portion of the property as may be owned by the person signing the petition.

111.170. ZONE CHANGE SIGNATURES: HOW COUNTED. Pursuant to Section 111.160 (F), the following rules shall apply:

- (A) Tenants in Common. When but one tenant in common, or several but less than all, signs a zone change petition or waiver it shall be counted only for such interest or portion of the common property as the person or persons signing may own.
- (B) Tenants by the Entirety; Joint Tenancy. Where property is owned by a husband and wife as tenants by the entirety and only one of them signs, he or she shall be deemed the owner of 1/2 of the property and shall be counted accordingly. Where property is owned by two (2) or more persons under an estate having the attributes of a joint tenancy or right of survivorship each tenant shall be deemed the owner of so much of the property as he would receive if the joint property were divided equally between such tenants.
- (C) Purchasers Under Contract. Any person purchasing property under a contract of sale may sign a petition, waiver, or other instrument required by this ordinance, as owner, provided that he states he is purchasing the property under contract.
- (D) Government Property. Notwithstanding the fact that the consent of the federal, state, county, or local government, or the agents thereof, is not necessary to any zone change petition or other petition required by this ordinance, any such governmental unit or agency may, however, remonstrate and object to any proposed change, and such objection, remonstrance, or other instrument shall be signed by the administrative head of such governmental unit having authority over the property.
- (E) Corporations. Where property is owned by a private corporation, a petition, waiver, or other instrument conveying such property under this ordinance shall be signed by an authorized officer of the corporation.
- (F) Prima Facie Proof of Ownership. When any person signs as the owner of property or as an officer of a public or private corporation owning the property, or as an attorney in fact or agent of any such owner, or when any person states that he is buying the property under contract, the Hearings Officer and the governing body may accept such statements to be true, unless the contrary be approved, and except where otherwise in this ordinance more definite and complete proof is required, the Hearings Officer or governing body may demand proof that the signer is such owner, officer, attorney in fact, or agent. [Amended by Ordinance #88-21, dated November 30, 1988.]

111.180. FILING AND CHECKING PETITION. After the complete zone change petition has been filed with the Planning Director, the staff shall check the petition and determine if the petition is complete under the provisions of Section 111.170, and if the petition is sufficient, the Planning Director shall then fix the time of the hearing on such petition before the Planning Commission or Hearings Officer and cause notice of hearing to be given as provided in Sections 111.340 through 111.370. [Amended by Ordinance #88-21, dated November 30, 1988.]

111.190. ZONE CHANGE HEARING BEFORE THE HEARINGS OFFICER. The Hearings Officer shall hold a public hearing as prescribed in Chapter 111 on the complete petition for zone change. After concluding this hearing, the Hearings Officer shall prepare a report setting forth a summary of facts and conditions involved in the reclassification and submit the same, together with a recommendation to the Board of Commissioners. [Amended by Ordinance #88-21, dated November 30, 1988.]

111.200. ZONE CHANGE HEARING BEFORE THE BOARD OF COMMISSIONERS. The Board of Commissioners shall hold a public hearing on the proposed zone change as provided in Chapter 111. Final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. [Amended by Ordinance #88-21, dated November 30, 1988.]

111.210. FINAL ACTION BY THE BOARD OF COMMISSIONERS. Any zone change or reclassification of property shall be by ordinance which shall be passed by the Board of Commissioners. Any denial of a proposed zone change shall be by order. A final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. Filing of an appeal to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter appealed until the appeal has been resolved. Whenever any premises are reclassified as to zone, or a new zone established, or boundary lines of a zone changed, the official zoning map shall be changed as provided in Section 111.140. [Amended by Ordinance #88-21, dated November 30, 1988. Sections 123.073, 123.076, 123.077, 123.079, 123.082, 123.085 and 123.088 repealed by Ordinance #88-21, dated November 30, 1988.]

111.220. FILING A LAND USE APPLICATION.

- (A) Application for any land use permit or determination under this ordinance shall be submitted to the Community Development Department on forms provided by the County Planning Director. The application shall be accompanied by the appropriate fee(s) as adopted by the Board of Commissioners. An application may be filed by:
 - (1) The owner of the subject property;
 - (2) A purchaser thereof under a duly executed written contract, when the purchaser states on the application he or she is the contract purchaser and the seller consents in writing to the application;
 - (3) A lessee in possession of the subject property, when the owner consents in writing to the application; or
 - (4) The agent for any of the foregoing persons when duly authorized in writing by the owner of the property.
- (B) Concurrent requests do not require multiple fees; however, the higher of multiple application fees shall be charged
- (C) If an application for a land use permit, partition request within an acknowledged urban growth boundary, or zone change is incomplete, the Planning Director shall notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete upon receipt by the Planning Director of the missing information. If the applicant refuses to submit the missing information, the application shall be deemed complete on the 31st day after the Planning Division first received the application. This provision does not preclude the applicant from submitting additional information at a later date.

111.230. NOTICE OF APPLICATION.

- (A) Notice of an application which requires a public hearing shall be made as prescribed in Sections 111.340 through 111.370 of the Polk County Zoning Ordinance.
- (B) Notification shall be made at least 20 days before the date on which the application is to be heard. Those notified have an opportunity to comment in writing to the Planning Director concerning the application. [Amended by Ordinance 90-19, dated January 2, 1991.]

111.235 SPECIAL TRANSPORTATION NOTIFICATION

Polk County will provide ODOT notification to ensure that ODOT is involved as early as possible in the assessment of any redevelopment or new development proposal within the Rickreall community with a trip generation potential that significantly exceeds the trip generation assumptions for the Rickreall community adopted into the Polk County TSP as part of the Rickreall Junction Facility Plan. The ODOT contact for any such development shall be the ODOT Area 3 Planner.

111.240. ADMINISTRATIVE REVIEW. Administrative review shall be conducted by the Planning Director as follows:

- (A) Type A Procedure. This procedure shall apply to applications for land partitions; farm dwellings in the Exclusive Farm Use (EFU) and Farm Forest (F/F) zones; lot line adjustments (except for those exclusions noted in Chapter 91 of the Polk County Code; forest dwellings in the Timber Conservation (TC) and Farm Forest (F/F) zones; lot-of-record determinations as specified by this ordinance; placement of manufactured homes in the Suburban Residential (SR) zone; use of a manufactured home for temporary hardship in all zones; administrative variances; land use determinations; and all other listed uses as specified. Under this procedure, the Planning Director shall render a final decision or, alternatively, may refer the matter to the Hearings Officer as provided under Section 111.260. Decisions under this procedure may be appealed to the Board of Commissioners.
- (B) Type B Procedure. This procedure shall apply to all applications not specified under Section 111.240 (A), unless an initial hearing is required by a specific provision of the Polk County Zoning Ordinance. Notice of the proposed action shall be made pursuant to Section 111.350. Those notified, including the applicant, shall be given 10 days from the date of the notification to either submit a written request for public hearing before the Hearings Officer, or bring to the attention of the Planning Director objections to approval or any adverse consequences or incompatibilities that may result from approval. A request for a hearing shall be in writing and shall state the basis for requesting the hearing and shall be accompanied by payment of a fee, specified in the County's fee resolution, to defray the cost of the hearing. The amount of the fee shall not exceed the limits established by ORS 215.416(11). No fee is required if the hearing is requested by the Board, Commission, Department of Land Conservation and Development, or the Director. [Amended by Ordinance #92-38, dated September 9, 1992.] [Amended by Ordinance #97-9, dated December 17, 1997.] [Amended by Ordinance #09-02, dated May 6, 2009.]

111.245. NOTICE OF TYPE A PROCEDURE.

- (A) Notice of applications under Section 111.240 (A) shall be sent for review and comment to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use request and any affected jurisdiction, state, or local agency as determined by the Planning Director. [Adopted by Ordinance #97-9, dated December 17, 1997.] [Amended by Ordinance #09-02, dated May 6, 2009.]
- (B) Notice shall be mailed to the Oregon Department of Transportation for any land use change or development requiring County review and approval which requires direct access to a state highway or which is located within 500 feet of a state highway or public use airport. [Adopted by Ordinance #98-5, dated July 8, 1998.]

111.250. ACTION BY PLANNING DIRECTOR OR HEARINGS OFFICER.

- (A) Applications submitted under section 111.240 may be granted only if they meet criteria established in the Polk County Zoning Ordinance and/or Comprehensive Plan. Decisions shall be made by the Polk County Planning Director or Hearings Officer only after reviewing materials submitted with the application and other applicable evidence and hearing testimony from Planning Division staff, the applicant(s) and other interested parties.
- (B) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

- (C) Polk County shall take final action on an application for a permit, limited land use decision, or zone change, including resolution of all appeals as provided by Section 111.280, within 120 days after the application is deemed complete, pursuant to Section 111.220 (C).
- (D) The 120-day period set in subsection (C) of this section may be extended for a reasonable period of time at the request of the applicant.
- (E) The 120-day period set in subsection (C) of this section does not apply to an amendment to the Polk County Comprehensive Plan or the provisions of the Zoning Ordinance.

111.260. REFERRAL BY PLANNING DIRECTOR.

- (A) The Polk County Planning Director may decline to act on an application under section 111.240 and refer it to the Polk County Hearings Officer. Referral shall be made within 30 days after the date on which the application is received, and shall be heard at the first regular meeting of the Hearings Officer scheduled after the referral.
- (B) Action of the Hearings Officer on a referral is final and may be appealed to the Polk County Board of Commissioners in accordance with section 111.280.
- (C) The Director shall notify the applicant in writing of a referral to the Hearings Officer. Notice shall be sent within seven days after the date of referral.

111.270. NOTICE OF ACTION BY PLANNING DIRECTOR OR HEARINGS OFFICER.

The Polk County Planning Director shall send notice of any action taken on an application under Section 111.240 to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action, all property owners of record within the notification area as specified in Section 111.350, and any person who is adversely affected or aggrieved by the decision. Notification shall be mailed within ten days after action is taken on the application. However, failure to receive notice does not affect the validity of the action. [Amended by Ordinance No. 97-9, dated December 17, 1997.] [Amended by Ordinance #09-02, dated May 6, 2009.]

111.275. ZONE CHANGE CRITERIA. Pursuant to Section 111.160, a zone change may be approved, provided that the request satisfies all applicable requirements of this ordinance, and provided that with written findings, the applicant(s) clearly demonstrate compliance with the following criteria:

- (A) The proposed zone is appropriate for the comprehensive plan land use designation on the property and is consistent with the purpose and policies for the applicable comprehensive plan land use classification;
- (B) The proposal conforms with the purpose statement of the proposed zone;
- (C) The uses allowed in the proposed designation will not significantly adversely affect allowed uses on adjacent lands;
- (D) Adequate public facilities, services, and transportation networks are in place, or are planned to be provided concurrently with the development of the property;
- (E) The proposed change is appropriate taking into consideration the following:
 - (1) Surrounding land uses,
 - (2) The density and pattern of development in the area,
 - (3) Any changes which may have occurred in the vicinity to support the proposed amendment;

- (F) The proposal complies with any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land; and
- (G) The proposal complies with Oregon Revised Statutes, all applicable statewide planning goals and associated administrative rules. If an exception to one or more of the goals is necessary, the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4 shall apply. [Adopted by Ordinance No. 98-3, dated March 25, 1998.]

111.280. APPEAL TO BOARD OF COMMISSIONERS.

- (A) An appeal may be taken to the Polk County Board of Commissioners by any person whose interests are affected adversely or who is aggrieved by action on an application under Section 111.240. An appeal must be filed with the Community Development Department within 10 days after the mailing of notice to the applicant. [Amended by Ordinance #09-02, dated May 6, 2009.]
- (B) On receiving an appeal the Community Development Department shall certify and deliver to the Board a copy of the original application and copies of all other papers constituting the record of the action under appeal.
- (C) Upon receipt of an appeal by the Community Development Department, the Board of Commissioners shall set the matter for a public hearing and cause notice of the time and place of the hearing to be given as provided under Section 111.340. The Planning Director shall send notice of the public hearing to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action, all property owners of record within the notification area as specified in Section 111.350, and any person who is adversely affected or aggrieved by the decision. A hearing may be continued from time to time if the Board considers it advisable. [Amended by Ordinance #09-02, dated May 6, 2009.]
- (D) The appeal shall be accompanied by payment of a fee, specified in the County's fee resolution, to defray the cost of the hearing. [Amended by Ordinance #09-02, dated May 6, 2009.]
- (E) Filing of an appeal stays all proceedings by all parties in connection with the matter appealed until the Board of Commissioners has made a decision on the appeal. [Amended by Ordinance #89-1, dated February 22, 1989.] [Amended by Ordinance #97-9, dated December 17, 1997.]

111.290. CALL OF BOARD OF COMMISSIONERS.

- (A) Two or more members of Polk County Board of Commissioners may call up an action by the Polk County Hearings Officer or the Planning Director. However, the call must be made at the first meeting after notice of the decision is presented.
- (B) The provisions of Section 111.280 (B) and (C) apply with respect to a matter called up under this section. [formerly 122.070]

111.300. ACTION BY BOARD OF COMMISSIONERS.

- (A) Pursuant to Sections 111.280 and 111.290, the Polk County Board of Commissioners shall review any action of the Polk County Hearings Officer or the Polk County Planning Director. The Board may remand the matter for further investigation and consideration, in which case the Hearings Officer or Planning Director shall conduct such further investigation as is necessary and report findings and conclusions in writing to the Board.
- (B) Pursuant to Section 111.290, after conducting a public hearing to consider an action and appeal, and finding that the facts therein stated do not warrant further hearing, the Board may summarily affirm the action and deny the appeal.

- (C) Pursuant to Section 111.290, after conducting a public hearing to consider an action and appeal, the Board may affirm or reverse wholly or partly, or modify, any action appealed, and may impose such additional conditions as it finds warranted by the facts.

111.310. EFFECTIVE DATE. Land use actions granted under section 111.240 become effective on the 10th day after mailing of the notice of the decision or after the regular meeting of the Polk County Board of Commissioners following such mailing, whichever is later. However, if the matter has been called up by the Board under Section 111.290, or the matter has been appealed under Section 111.280, the land use action does not become effective until the Board has taken final action. A final decision by the Board of Commissioners shall not be effective until 21 days after mailing of the decision. An appeal of a land use action by the Board of Commissioners to the Land Use Board of Appeals stays all proceedings by all parties in connection with the matter until the appeal has been resolved. [Amended by Ordinance #97-9, dated December 17, 1997.]

111.320. HOLDING PUBLIC HEARINGS. Any hearing shall be public and may be continued or postponed from time to time. At any such hearing all persons shall be given an opportunity to be heard.

111.330. APPEARANCES OF INTERESTED PERSONS, REMONSTRANCES. Any person or persons desiring to be heard for or against the subject of the hearing may file with the governing body, Hearings Officer or the Planning Commission, whichever holds the hearing, a statement in writing, or may appear and respond orally at the hearing, either in person or by authorized representative. Written remonstrances or objections to the proposed zone change, variance, conditional use or other subject of hearing, may be filed with the hearings body.

[Amended by Ordinance #88-21, dated November 30, 1988.]

111.340. NOTICE OF PUBLIC HEARING; CONTENT. Upon the fixing of the time of public hearing on all matters before the appropriate hearing body, the Director shall give notice as set forth in this chapter. The notice shall:

- (A) Explain the nature of the application and the proposed use or uses which could be authorized;
- (B) List the applicable criteria from the ordinance and the plan that apply to the application at issue;
- (C) Set forth the street address or other easily understood geographical reference to the subject property.
- (D) State the date, time and location of the hearing.
- (E) State that failure of an issue to be raised in a hearing, in person or in writing, or failure to provide sufficient specificity to afford the hearings body an opportunity to respond to the issue, precludes appeal to the Land Use Board of Appeals on that issue;
- (F) State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria, are available for inspection at no cost and will be provided at reasonable cost;
- (G) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and will be provided at a reasonable cost; and include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings. [Amended by Ordinance 89-17, dated December 6, 1989.] [Amended by Ordinance 88-21, dated November 30, 1988.]

111.350. MAILING OF NOTICE; NOTIFICATION AREA; FAILURE TO RECEIVE NOTICE.

- (A) Notices of public hearing to be held by the hearing body, notice of an application to be processed as a Type B procedure pursuant to Section 111.240 (B), or notice of any action taken on an application by the Planning Director or Hearings Officer shall be mailed to the applicant and to owners of record on the most recent property tax assessment roll where such property is located:
 - (1) Within 100 feet of the property which is the subject of the notice, where the subject property is wholly or partly within an urban growth boundary;
 - (2) Within 250 feet of the property which is the subject of the notice, where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
 - (3) Within 750 feet of the property which is the subject of the notice, where the subject property is within a farm or forest zone.
- (B) Notices of public hearing to be held by the hearing body shall be mailed 20 days prior to the date of the hearing.
- (C) Failure to receive notice by mail as provided in this section shall not affect the validity of the proceedings if the County can demonstrate by affidavit that such notice was given.
- (D) Notice of an application to be processed as a Type B procedure pursuant under Section 111.240 (B) and public hearing notices shall be mailed to all groups that are registered with the Planning Division to receive electronic notification of land use applications within the geographical area that includes the site of the land use action. [Amended by Ordinance #89-17, dated December 6, 1989.] [Amended by Ordinance #97-9, dated December 17, 1997.] [Amended by Ordinance #09-02, dated May 6, 2009.]
- (E) Notice of a public hearing shall be mailed to the owners of public-use airports if the property subject to the land use permit or zone change is located:
 - (1) Within 5,000 feet of a visual airport.
 - (2) Within 10,000 feet of an instrument airport. [Adopted by Ordinance #98-5, dated July 8, 1998.]

111.360. POSTING NOTICE.

- (A) Notice of public hearing related to an application to be processed as a Type B procedure pursuant to Section 111.240 (B), shall be given by posting a sign on the subject property within 10 feet of whatever boundary line of such land abuts the most traveled public road or street, and if no public road abuts thereon, then facing in such a manner as may be most readily seen by the public.
- (B) It shall be the responsibility of the applicant to provide the sign frame and place such notice at least 20 days prior to the public hearing. A placard with printed information on the proposed change shall be provided by the Planning Director for the sign structure, and shall be obtained for mounting by the applicant or his representative prior to posting.
- (C) The posted sign shall be removed by the applicant or the applicant's representative within five days after final action on the application. [Amended by Ordinance #89-17, dated December 6, 1989.]

111.370. PUBLISHING NOTICES. Notice of public hearings to be held on amendments to the text of the ordinance, on zone changes and Comprehensive Plan amendments, shall be given by

publishing such notice in a newspaper of general circulation in the county at least once not less than 20 days prior to said hearing. [Amended by Ordinance #88-21, dated November 30, 1988, and Ordinance #219, dated September 22, 1978.]

111.380. CONDUCT OF HEARING; CONTINUANCE; EXTENSION; REOPENING RECORD.

- (A) At the beginning of a hearing under the Comprehensive Plan or land use regulations of Polk County, a statement shall be made to those in attendance that:
 - (1) Lists the applicable substantive criteria;
 - (2) States that testimony and evidence must be directed toward the criteria described in paragraph (1) of this subsection, or other criteria in the Plan or implementing ordinances which the person believes to apply to the decision; and
 - (3) States that failure to raise an issue with sufficient specificity to afford the hearings body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.
- (B) If additional documents or evidence in support of an application is submitted at a public hearing, any party shall be entitled to a continuance of the hearing. Such a continuance is not subject to the limitations of ORS 215.428.
- (C) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall not be subject to the limitations of ORS 215.428.
- (D) When the Board of Commissioners, Planning Commission or Hearings Officer reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue. [Adopted by Ordinance #89-17, dated December 6, 1989.]

**POLK COUNTY
COMMUNITY DEVELOPMENT
PLANNING DIVISION
Polk County Court House
850 Main St.
Dallas, Oregon 97338**

**ADDRESS SERVICE
REQUESTED**



UNITED STATES POSTAGE
02 1M
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MAY 12 2009
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FITNEY BROWES
MAILED FROM ZIP CODE 97338

DLCD- Plan Amendment Specialist
635 Capital St NE, Ste 150
Salem, OR 97301

